

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for)
Reinstatement of Surrendered)
Certificate of:)

WILLIAM M. COBURN)

File No. 27-2010-210560

Physician's and Surgeon's)
Certificate No. C-23131)

Petitioner/Respondent.)
_____)

DECISION

The Proposed Decision of Richard J. Lopez, Administrative Law Judge, dated December 14, 2011, in Los Angeles, is attached hereto. Said decision is hereby amended, pursuant to Government Code Section 11517 (c)(2)(C) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. Page 3, Paragraph No. 4 - the case number is corrected to read "05-2003-149578."

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 10, 2012.

IT IS SO ORDERED January 13, 2012.

MEDICAL BOARD OF CALIFORNIA

By: Shelton Duruisseau
Shelton Duruisseau, Ph.D., Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of Surrendered Certificate of:

WILLIAM M. COBURN,

Petitioner.

Case No.: 27-2010-210560

OAH No.: 2011050039

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on October 19, 2011.

Cindy M. Lopez, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Petitioner appeared in person and represented himself.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued.

At the request of the parties the record was held open to allow Respondent to file additional character references (see Finding 9) and to allow the Deputy Attorney General to supplement Exhibit 6. All of said information was timely received and the matter deemed submitted on November 25, 2011.

The Administrative Law Judge now finds, concludes and orders as follows:

FACTUAL FINDINGS

Petitioner

1. William M. Coburn, Petitioner herein, filed a Petition for Reinstatement of Surrendered Certificate on October 28, 2010, with the Medical Board of California (Board). Petitioner and the Board have met all jurisdictional requirements. Jurisdiction for this proceeding exists.

2. On July 21, 1961, the Medical Board of California issued physician and surgeon's certificate number C23131 to the Petitioner.

License Surrender

3. On May 23, 2007, the Board adopted as its Decision a Stipulation for Surrender of License (Surrender) of Petitioner herein, in Board Case No. 05-2003-149578. The Decision was effective May 30, 2007. The Surrender included the following Order of the Board:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C23131, issued to Respondent William Coburn, M.D. is surrendered and accepted by the Division of Medical Quality.

14. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Division shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Division.
15. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Division's Decision and Order.
16. Respondent shall cause to be delivered to the Division both his Certificate wall and pocket license certificate on or before the effective date of the Decision and Order.
17. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Division shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 05-2003-149578 shall be deemed to be true, correct and admitted by Respondent when the Division determines whether to grant or deny the petition.

Cause for Surrender

4. On September 8, 2006, the Executive Officer of the Board filed an Amended Accusation (Accusation) against Petitioner as case number 05-2003-14958. The Accusation contained thirteen specific causes of discipline, in sum, as follows:

<u>Count</u>	<u>Conduct Deemed To Be True</u>
(1)	Unprofessional conduct (accepting a gun in exchange for prescriptions).
(2)	Furnishing Drugs without good faith medical examination.
(3)(7)(10)	Gross negligence – Patient M.B.
(4)	Repeated negligent acts – Patient M.B.
(5)(8)(11)	Excessive prescribing – Patient M.B.
(6)	Prescribing to an addict – Patient M.B.
(9)	Failure to maintain accurate and adequate records – Patient M.B.
(12)	Failure to maintain accurate and adequate records – Patient E.G.
(13)	Excessive prescribing to patients M.G. and E.G.

5. With regard to the Accusation, as part of the Stipulated Surrender of License and Order which lead to the Decision in Finding 3 Respondent expressly agreed as follows:

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 05-2003-149578, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.
9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent states that he does not wish to contest the factual issues which would be presented at the hearing, those issues would establish a factual basis for the charges in the Accusation.

Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Division to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

Rehabilitation

6. Since the time of license discipline Petitioner has engaged in some rehabilitative efforts as follows:

- (A) He worked, temporarily in a professional office, arranging meetings for office professionals.
- (B) He has attended church services and sought spiritual guidance.
- (C) He has read articles in publications including Annals of Internal Medicine, New England Journal of Medicine. He has reviewed Mayo Clinic proceedings.
- (D) He received a Certificate of Achievement from Smartest Doc (an internet group) "for ranking as one of the Top 100 Smartest Internists in the United States" after participating for a time in daily quizzes promoted by Smartest Doc.

7. Petitioner, since the time of the Surrender has been in conformity and compliance to society's norms and rules of civil behavior.

8. Petitioner is commended for his rehabilitative efforts set forth in Finding 6 and 7. However, rehabilitation to date is insufficient as is demonstrated in the Findings which follow.

9. Two packets of documents were filed. The first packet – marked and received as Exhibit 7 – consisted of numerous letters and other writings dating from July 18, 2004, many duplicative and some undated. The second packet – marked and received as Exhibit 8 – were dated in November, 2011, many with attached correspondence from an earlier year. Much of the information was duplicative. Exhibits 7 and 8, as a whole, generally and credibly attested to Respondent's compassion, competence and concern while a licensed physician. Some of the authors of the letters and writers indicated knowledge of the fact of Respondent's license Surrender. However, none indicated knowledge of the actual facts and circumstances that caused the Surrender and therefore Findings 7 and 8 do not constitute evidence of rehabilitation from the conduct leading to the Surrender.

10. Respondent proffered two letters of recommendations from California licensed physicians. Both have known Petitioner for many years and attested to his then professionalism but neither expressed any knowledge of Petitioner's current activities and neither expressed knowledge of Petitioner's license surrender and the facts circumstances leading to same.

11. Petitioner proffered no evidence (documentation) of coursework in addressing his wrongful conduct. There was no testimony from friends, professionals, colleagues or others as to any change in attitude from the time of the license surrender.

12. Petitioner expresses little remorse or regret for the litany of wrongful conduct giving rise to surrender of his license. In his testimony, he claims "errors in practice. . ." and "... mistakes were made. . ." He lacks present awareness of the danger to others caused by his wrongful conduct. He does not understand patients are vulnerable. He has not addressed his wrongful conduct in any meaningful way.

13. On November 13, 2008, the New Mexico Medical Board (NMMB) issued a Decision and Order in their Case No. 2008-015 following Petitioner's application for a license to practice medicine in New Mexico. The Conclusions of Law and Order of that Decision are as follows. Conclusion 1 references the Surrender.

CONCLUSIONS OF LAW

1. Dr. Coburn is guilty of unprofessional or dishonorable conduct contrary to section 61-6-15 (D) (30), and his application for a New Mexico medical license should be denied on this basis, that being surrender of his license to practice medicine before another state licensing board while disciplinary action in such other state was pending based on acts or conduct that would constitute grounds for disciplinary action in New Mexico.
2. Dr. Coburn is guilty of unprofessional or dishonorable conduct contrary to section 61-6-15 (D) (8), and his application for a New Mexico medical license should be denied on this basis, that being misrepresentation in applying for a license to practice in New Mexico.

ORDER

Dr. Coburn's application for a license to practice medicine in New Mexico is denied.

14. Conclusion of Law 2 was based on the following finding of the NMMB:

On or about February 23, 2007, you were found guilty of two misdemeanors regarding firearms in the Superior Court of Ventura County, California.

On or about May 30, 2007, you submitted an application for a license to practice medicine in New Mexico. Question #6 asked, whether you had ever been arrested or convicted of a felony or misdemeanor. You answered "Yes" to the question but did not disclose that you were convicted of the misdemeanors stated above.

LEGAL CONCLUSIONS

Applicable Statute

1. Business and Professions Code section 2307 provides in pertinent part:

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(d) The petition may be heard by a panel of the division. The division may assign the petition to an administrative law judge designated in section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the division or the California Board of Podiatric medicine, as applicable, which shall be acted upon in accordance with section 2335.

(e) The panel of the division or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in section 11371 of the Government Code finds necessary.

Applicable Case Law

2. In a proceeding to restore a disciplined license, the burden rests on a petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. *Flanzer v. Board of Dental Examiners* (1990) 220 Cal. App. 3d 1392, 1398.

3. A person seeking reinstatement must present strong proof of rehabilitation and a sufficient showing of rehabilitation to overcome the Board's former adverse determination. *Hippard v. State Bar of California* (1989) 49 Cal. 3d 1084, 1092-1093.

4. The standard of proof is clear and convincing evidence to a reasonable certainty. *Id.*; *Housman v. Board of Medical Examiners* (1948) 84 Cal. App. 2d 308.

Disposition

5. Administrative proceedings relating to licensing are to protect the public and the public interest and not to punish. Petitioner has yet to establish a record of clear and convincing rehabilitation necessary for reinstatement of his certificate as is demonstrated by Findings 9 through 14. In sum, Petitioner has not sustained his burden or standard of proof. The acts, for which Petitioner's license was revoked, were serious violations of Petitioner's duties towards his patients and his profession. Additionally, he made a recent misrepresentation of a material fact to another licensing agency (Findings 13 and 14).

6. Respondent is not sufficiently rehabilitated since the time of the Surrender of his license and he is not entitled to have his license restored. Accordingly, the only Order that can be made which is consistent with the public interest is the Order which follows:

ORDER

The Petition of William M. Coburn for Reinstatement of Surrendered Certificate No. C-23131 is hereby denied.

Dated: December 14, 2011


RICHARD J. LOPEZ

Administrative Law Judge
Office of Administrative Hearings

RJL:ref